IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 156 OF 2006
IN
COMPANY PETITION NO. 233 OF 2003

Press-N-Forge .....Appellant

Versus

Henkal Switchgear Limited ....Respondents

Ms. Kalpana Ghone, instructed by Mr.S.G. Lakhani, for the appellant.
Mr. Salil Shah, instructed by M/s. Gajria & Co., for the respondents.

CORAM: **KSHITIJ R. VYAS, C.J.** &
ABHAY .S. OKA, J.
DATE: **JUNE 22, 2006**.

P.C.

The learned Company Judge vide his order dated 15th October, 2004 dismissed the Company Petition No. 233 of 2003, which is challenged in this appeal.

2. The appellant filed the above Company Petition claiming an amount of Rs. 16,21,285/- basing its case on invoices, delivery challans and bills of exchange accepted by the Company. It appears that while giving details of the invoices, the appellant produced wrong documents vide Exhibits C-1 to C-6. The learned Company Judge dismissed the petition by observing that the appellant has failed to establish its case on the averments itself.

3. In our opinion, the learned single Judge could have

appreciated the fact that the appellant has in fact given the inspection of all the correct documents to the Respondent Company. The mistake on the part of the Advocate, though inadvertently, to produce the bills of exchange vide Exhibits C-1 to C-6 is not in conformity with the original documents. Apart from that, the learned Judge has not considered Exhibit-D which is in consistent with the averments made in the petition.

4. In view of the above, the matter requires reconsideration by the learned Company Judge. In the result we allow this Appeal and remit the matter back to the learned Company Judge with liberty to the appellant to place on record correct copies of Exhibits C-1 to C-6 by making appropriate application. Due to the mistake committed by the Advocate for the appellant, we direct the appellant to pay cost quantified at Rs.10,000/- to the respondent within ten days. All contentions of the parties are kept open.

CHIEF JUSTICE

ABHAY S. OKA, J.